

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEAN SALLEY,

Plaintiff,

-against-

MICHAEL CAPRA, et al.,

Defendants.

23-CV-4566 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff, who is currently incarcerated at Shawangunk Correctional Facility, brings this pro se action under 42 U.S.C. § 1983, alleging that Defendants treated him differently than other similarly situated prisoners when he was incarcerated at Green Haven Correctional Facility, in violation of the Fourteenth Amendment's Equal Protection Clause. (Am. Compl. ("AC") (Dkt. No. 21).) By order dated June 7, 2023, the Court granted Plaintiff's request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees. (Dkt. No. 4.) On August 23, 2023, the Court issued an Order of Service directing service on the named Defendants and ordering the New York State Department of Corrections and Community Supervision ("DOCCS") to identify the John Doe Defendant named in this action pursuant to its obligations under *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997). (Dkt. No. 6.) The Office of the Attorney General complied with that Order, providing the name Kristen Trapalis on December 11, 2023, (Dkt. No. 19), which the Plaintiff claims he learned of on or around the date of December 20, 2023, (Dkt. No. 22). Plaintiff filed an Amended Complaint on January 8, 2024, naming Defendant Trapalis in lieu of the John Doe Defendant. (AC.) On January 9, 2024, Defendant filed a letter requesting that this Court order the U.S. Marshal Service to re-serve the Defendants in this case. (Dkt. No. 22.)

To allow Plaintiff to effect service on Defendant Trapalis through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for this Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon Defendant Trapalis.

Rule 4(m) of the Federal Rules of Civil Procedure generally requires service of the summons and complaint to be completed within 90 days of the date the summons issues, and it is Plaintiff’s responsibility to request, if necessary, an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). Plaintiff also must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail a copy of this Order to Plaintiff, together with an information package. The Clerk of Court is also directed to complete a USM-285 form with the address for Defendant Trapalis and deliver all documents necessary to effect service on that Defendant to the U.S. Marshals Service.

SO ORDERED.

Dated: January 11, 2024
White Plains, New York



KENNETH M. KARAS
United States District Judge

DEFENDANT AND SERVICE ADDRESS

Kristen Trapalis
New York State Department of Corrections and Community Supervision
1220 Washington Avenue
Albany, New York 12226